

## Message Text

CONFIDENTIAL

PAGE 01 BONN 05516 041714Z

45

ACTION EUR-25

INFO OCT-01 ISO-00 EURE-00 SSO-00 NSCE-00 USIE-00 INRE-00

CIAE-00 DODE-00 PM-07 H-03 INR-10 L-03 NSAE-00 NSC-07

PA-04 RSC-01 PRS-01 SP-03 SS-20 CPR-02 ACDA-19 SAJ-01

IO-14 OMB-01 EB-11 TRSE-00 NIC-01 DRC-01 /135 W

----- 085461

O R 041617Z APR 74

FM AMEMBASSY BONN

TO SECSTATE WASHDC IMMEDIATE 1574

INFO USMISSION BERLIN IMMEDIATE

USMISSION NATO BRUSSELS

AMEMBASSY LONDON

AMEMBASSY MOSCOW

AMEMBASSY PARIS

CONFIDENTIAL BONN 5516

E.O. 11652: GDS

TAGS: PGOV, WB, GE, GW, US, FR, UK

SUBJECT: BK/O AND BK/L ON PRIVILEGES AND IMMUNITIES FOR  
GDR PERM REPS IN WEST BERLIN

REF: (A) STATE 67456; (B) BONN 5271

SUMMARY: AT TRIPARTITE MEETING APRIL 4 FRENCH AND UK  
REPS STATED THEY AND AUTHORITIES UNABLE ACCEPT U.S.  
PROPOSAL FOR SHORT BK/L AUTHORIZING PROMULGATION BY  
SENAT OF FRG ORDINANCE, AND REPEATED THAT LONDON AND  
PARIS HAVE APPROVED BK/L AND BK/O AS TRANSMITTED REFTEL  
B. IN ENSUING DISCUSSION ALL REPS AGAIN WENT OVER LOGIC  
OF RESPECTIVE POSITIONS. END SUMMARY.

1. UK REP (CULLIMORE) AND LEGAL ADVISOR (BERMAN) REPEATED  
RATIONALE FOR BK/L-BK/O PROCEDURE AS FOLLOWS. IN  
REPLYING TO SOVIET PROTESTS ON BERLIN, IT IS OFTEN  
NECESSARY FOR THE ALLIES TO RESPOND THAT THEY HAD ACTED  
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 BONN 05516 041714Z

IN ACCORDANCE WITH THE "ESTABLISHED PROCEDURES". IT IS

THEREFORE IMPORTANT TO MAINTAIN THE CREDIBILITY OF THIS LINE OF DEFENSE. THE QA SETS OUT SPECIFICALLY THAT INTERNATIONAL AGREEMENTS ENTERED INTO BY THE FRG MIGHT BE EXTENDED TO WEST BERLIN, PROVIDED THAT THE EXTENSION IS SPECIFIED IN EACH CASE, I.E., THAT THE AGREEMENT ITSELF CONTAINS A BERLIN CLAUSE. THIS HAS ALSO BEEN STANDING ALLIED PRACTICE SINCE WELL BEFORE THE QA. IT IS ALSO STANDARD PRACTICE NOT TO PERMIT THE NEED FOR A BERLIN CLAUSE TO BE EVADED BY TAKING OVER IN WSB LEGISLATION RELATING TO A TREATY WHICH HAD NOT ITSELF BEEN EXTENDED TO BERLIN. IN THE PRESENT CASE, IF THE ORDINANCE TAKEN OVER BY WSB WENT FURTHER THAN THE TEXT OF THE PROTOCOL BY CONFERRING ON PERSONNEL OF THE GDR PERMANENT MISSION IN BONN IMMUNITIES AND PRIVILEGES IN WEST BERLIN WHICH THE GDR HAD NOT ASKED FOR AND DID NOT WANT, THE RUSSIANS MIGHT WITH SOME JUSTICE CLAIM THAT THE PROCESS FOR TAKING OVER FRG DOMESTIC LAWS BY WSB WAS BEING EXPLOITED TO RECOUP POINTS WHICH THE FRV HAD FAILED TO PERSUADE THE GDR TO ACCEPT IN THEIR BILATERAL NEGOTIATIONS. IN MAKING SUCH A COMPLAINT THE SOVIET POSITION WOULD BE STRENGTHENED BY THE FACT THAT THEY HAD ALREADY QUESTIONED THE TAKING OVER IN BERLIN OF THE FEDERAL LAW UNDER WHICH THE ORDINANCE WOULD BE ISSUED. FROM THE PRACTICAL POINT OF VIEW, THE BEST SOLUTION SEEMED TO BE NOT TO CONFER PRIVILEGES AND IMMUNITIES IN WSB ON THE MEMBERS OF THE GDR PERMANENT MISSION IN BONN. IT WOULD BE MUCH EASIER TO REPLY CONVINCINGLY TO THE SOVIET PROTEST IF THE ORDINANCE WERE NOT TAKEN OVER IN BERLIN AT ALL. THE GDR COULD NOT COMPLAIN THAT THE MEMBERS OF THEIR PERMANENT MISSION IN BONN ENJOYED NO IMMUNITY IN WEST BERLIN, IF THEY HAD RESISTED THE INSERTION IN THE PROTOCOL OF A FULL BERLIN CLAUSE. HOWEVER, REFUSAL BY THE ALLIES TO PROVIDE IN SOME WAY FOR SUCH PRIVILEGES AND IMMUNITIES (P&I) IS NOT SEEN AS A VIABLE ALTERNATIVE, SO A "MIDDLE PATH" BETWEEN OUTRIGHT REFUSAL AND A SIMPLE BK/L AUTHORIZING PROMULGATION OF FRG ORDINANCES IS SEEN AS BEST POSSIBLE SOLUTION. THIS "MIDDLE PATH" PERMITS GOOD ALLIED RESPONSE TO ANY FURTHER SOVIET PROTEST, A DEFENSE STRENGTHENED BY FACT THAT ONLY PURPOSE OF ALLIED ACTION CLEARLY SHOWN AS FACILITATION

CONFIDENTIAL

CONFIDENTIAL

PAGE 03 BONN 05516 041714Z

OF GDR REPS' FULFILLING THEIR DUTIES. UK REP ALSO SAW SUBSTANTIAL VALUE IN INSISTING VIS-A-VIS FRG IN CORRECT PROCEDURE AS A PROTECTION OF ALLIED POSITION.

2. FRENCH REP (PAYE) SAID HIS AUTHORITIES IN COMPLETE AGREEMENT WITH UK RATIONALE. HE SAID THEY SAW SITUATION AS ONE IN WHICH THREE ALLIES UNILATERALLY ALLOWING SENAT TO PROVIDE P&I TO GDR REPS AND, IN THIS

CONNECTION, NOTED THAT LANGUAGE IN PARA 1 OF BK/O WHICH WOULD AUTHORIZE THE SENAT "TO APPLY THE PROVISIONS" OF THE FRG ORDINANCE WENT TOO FAR BUT THAT HE WOULD NOT MAKE ISSUE OF THIS AT THIS LATE DATE. PAYE ADDED THAT SIMPLE TAKING OVER OF FRG ORDINANCES WOULD "ADD SOMETHING" TO GAUS-NIER AGREEMENT WHICH ALLIES MUST NOT DO. SUCH ACTION WOULD GIVE IMPRESSION THAT ALLIES AVOIDING QA AND ALSO WOULD PUT US IN BAD POSITION VIS-A-VIS THE SOVIETS.

3. REGARDING EXTENSION OF RELEVANT SEGMENTS GAUS-NIER AGREEMENT, UK REP NOTED THIS PERFECTLY ACCEPTABLE, BUT THAT IT PROPERLY A MATTER FOR BERLIN MISSIONS TO DISCUSS AND REACH AGREEMENT ON SPECIFIC PROCEDURE ON. FRENCH REP SAID THAT HIS CURRENT VIEW IS THAT EXTENSION AT LEAST OF PROTOCOL NOTE NUMBER 6 IS NECESSARY IN ORDER TO ESTABLISH LEGAL BASIS FOR FRG REPRESENTATION INTERESTS WSB VIS-A-VIS GDR.

4. COMMENT AND REQUESTED ACTION: WE AGREE WITH THRUST OF UK/FRENCH ARGUMENT AND SEE NO COMPELLING REASONS WHY BK/O AND BK/L ON LINES THOSE TRANSMITTED REFTEL B SHOULD NOT BE ISSUED. AIM OF ALLIES IS TO PROVIDE, IF POSSIBLE, AGREED TEXT TO FRG PRIOR TO BUNDESRAT ACTION ON ORDINANCES, WHICH WILL PROBABLY OCCUR AFTERNOON OF APRIL 5. WE WOULD HOPE THAT DEPARTMENT CAN AGREE TO TEXTS REFTEL B. IF NECESSARY, WE THINK WE MAY BE ABLE TO OBTAIN FRENCH AND BRITISH AGREEMENT TO DEPARTMENT PROPOSALS FOR BK/L PER PARA 2B OF REFTEL A.

HILLENBRAND

CONFIDENTIAL

NNN

## Message Attributes

**Automatic Decaptoning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** AGREEMENTS, DIPLOMATIC PRIVILEGES, LAW, ALLIANCE, DIPLOMATIC MISSION OPENING, BERLIN TRIPARTITE MATTERS, DIPLOMATIC PROTESTS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 04 APR 1974  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** golinofr  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1974BONN05516  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** GS  
**Errors:** N/A  
**Film Number:** D740076-0114  
**From:** BONN  
**Handling Restrictions:** n/a  
**Image Path:**  
**ISecure:** 1  
**Legacy Key:** link1974/newtext/t19740468/aaaackhz.tel  
**Line Count:** 145  
**Locator:** TEXT ON-LINE, ON MICROFILM  
**Office:** ACTION EUR  
**Original Classification:** CONFIDENTIAL  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 3  
**Previous Channel Indicators:**  
**Previous Classification:** CONFIDENTIAL  
**Previous Handling Restrictions:** n/a  
**Reference:** (A) STATE 67456; (B) BONN 5271  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** golinofr  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 02 APR 2002  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <02 APR 2002 by boyleja>; APPROVED <06 JUN 2002 by golinofr>  
**Review Markings:**

Declassified/Released  
US Department of State  
EO Systematic Review  
30 JUN 2005

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** BK/O AND BK/L ON PRIVILEGES AND IMMUNITIES FOR GDR PERM REPS IN WEST BERLIN  
**TAGS:** PGOV, WB, GC, GE, US, FR, UK, (CULLIMORE), (BERMAN)  
**To:** STATE  
**Type:** TE  
**Markings:** Declassified/Released US Department of State EO Systematic Review 30 JUN 2005